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IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1040 of 2005
In
Civil Writ Jurisdiction Case No. 11457 of 2003

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Sanjay Kr. Singh, S/o Late Mukhan Singh, resident of village- Hankar Tola, P.O.- Jitpur, P.S- Piro, District- Bhojpur

.... Appellant-Petitioner

Versus

1. The State Of Bihar
2. The Chairman, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, patna
3. The Secretary, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, patna
4. The Director, Security, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, patna
5. The Security Officer, M.T.B.E. Kanti, Muzaffarpur

.... Respondents-Respondents

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Appearance :
For the Appellant/s : Mr. Suresh Kr.Singh
For the State : Mr. S.B. Kumar, SC-7
For the Electricity Board : Mr. Vijay Kr. Verma, Adv.

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CORAM: HONOURABLE JUSTICE SMT. T. MEENA KUMARI
and
HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER
(Per: HONOURABLE JUSTICE SMT. T. MEENA KUMARI)

22 29-06-2012 This appeal under Clause-10 of Letters Patent of Patna High Court has been preferred against the order dated 10.03.2005 passed by the learned Single Judge in C.W.J.C. No. 11457 of 2003, whereby learned Single Judge has been pleased to dismiss the writ application preferred by the appellant-writ petitioner.

The writ petition was filed challenging the order of punishment passed by the disciplinary authority i.e. Director, (Security), Bihar State Electricity Board, whereby the petitioner

was dismissed from service after holding a departmental enquiry. The appellate order dated 10.01.2002 was also under challenge in the writ proceeding on the ground inter alia that there was no application of mind by the appellate authority.

The facts of the case are not in dispute. The writ petitioner-appellant was working as a Security Guard in the Bihar State Electricity Board when disciplinary proceeding was initiated against him with the framing of charges for mis-conduct with regard to an occurrence which had taken place on 06.02.2001. As per the charge, on the said date his duty was at the house of the Member Transmission, Bihar State Electricity Board, but he did not attend the duty. When the Hawaldar of the Board asked him to attend the duty, he refused to do so and was found to be in inebriated condition. On 08.02.2001, it is said that he came in an Ambulance along with the dead body of the daughter-in-law, parked the vehicle in the portico of the Vidyut Bhawan and though it was asked by the Security Guard of the Bhawan not to do so, he refused and thus attempted to pressurize the management of the Board to revoke the order of suspension passed against him.

From the records it appears that in the disciplinary proceeding, the enquiry officer found him guilty of the charge leveled against him which led to issuance of second show cause notice to the appellant-writ petitioner on the proposed punishment for dismissal from service. Finally he was

dismissed from service by an order dated 18.06.2001 as contained in Annexure-9. An appeal was preferred against the said order of dismissal which too was dismissed by the appellate authority by their order dated 10.01.2002 as contained in Annexure-11. It was against these orders that the appellant preferred writ application which came to be dismissed by the learned Single Judge by the order dated 10.03.2005 against which the present appeal has been preferred.

Learned counsel for the appellant has mainly submitted that there is total non application of mind in the order of the appellate authority inasmuch as he has recorded the order of the disciplinary authority for disposing of the appeal.

In view of the nature of the allegation against the petitioner and the situation in which his conduct came to be enquired into in a disciplinary proceeding, we do not intend to go into the merits of the allegations and the finding of the enquiry officer. There appears to be a situation where the appellant being emotionally surcharged because of sudden death of his daughter-in-law lost his mental balance and behaved in a manner which otherwise constituted mis-conduct under the service Rules. In that view of the matter, we consider it appropriate to remand the matter back to the disciplinary authority to re-consider the quantum of punishment. In our

opinion, in the peculiar facts of the present case, the punishment awarded against the appellant appears to be disproportionate to charge leveled against him particularly as he was going to attain the age of superannuation on 30.06.2011, i.e. few days after the order of dismissal.

The appeal is accordingly disposed of with a direction to disciplinary authority i.e. the Director, Security, Bihar State Electricity Board (respondent no.-4) to re-consider the quantum of punishment imposed on the appellant and substitute the same with a lesser punishment in accordance with law.

With this direction the appeal is disposed of and the order of learned Single Judge is modified to the extent indicated above .

(T. Meena Kumari, J)

(Chakradhari Sharan Singh, J)

P.K./-